

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

ALIGN TECHNOLOGY, INC.,

Plaintiff,

v.

CLEARCORRECT OPERATING, LLC,  
CLEARCORRECT HOLDINGS, INC., &  
INSTITUT STRAUMANN AG,

Defendants

Civil Action No. 6:24-cv-00187-  
ADA-DTG

**JURY TRIAL DEMANDED**

**CASE READINESS STATUS REPORT**

Plaintiff Align Technology, Inc. (“Align”) and Defendants ClearCorrect Operating, LLC, ClearCorrect Holdings, Inc. (collectively, “ClearCorrect”), and Institut Straumann AG (“Institut Straumann”)<sup>1</sup> hereby provide the following status report.

**SCHEDULE**

A scheduling order has not yet been filed. *Markman* and trial dates are not yet proposed.

**FILING AND EXTENSIONS**

Align filed its Complaint on April 11, 2024. ECF No. 1. The Court granted two extensions to respond for ClearCorrect for a total of 45 days. *See* ECF Nos. 19, 21 (by Text Order). The Court granted one extension to respond for Institut Straumann of 14 days. *See* ECF No. 22 (same).

**RESPONSE TO THE COMPLAINT**

On June 20, 2024, Institut Straumann made a limited and special appearance to file a motion to dismiss Align’s complaint pursuant to Federal Rule of Civil Procedure 12(b)(2) and ClearCorrect filed a motion to dismiss Align’s complaint pursuant to Federal Rule of Civil

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<sup>1</sup> Institut Straumann AG has entered a limited and special appearance to file its motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(2). Dkt. 30. The parties agree that, by joining this status report, Institut Straumann does not waive the arguments raised in its motion.

Procedure 12(b)(6). *See* ECF Nos. 30 & 31. Institut Straumann, furthermore, conditionally joins ClearCorrect's motion to dismiss to the extent that Institut Straumann's motion under Rule 12(b)(2) is denied.

### **PENDING MOTIONS**

There are two pending motions:

- 1) Institut Straumann's Sealed Motion to Dismiss Complaint Pursuant to Fed. R. Civ. P. 12(b)(2). ECF No. 30
- 2) ClearCorrect's Sealed Motion to Dismiss Complaint Pursuant to Fed. R. Civ. P. 12(b)(6). ECF No. 31.<sup>2</sup>

### **RELATED CASES IN THIS JUDICIAL DISTRICT**

There are no pending related cases in this Judicial District. *Align Technology, Inc. v. 3Shape A/S et al*, which is closed, involved one common asserted patent (U.S. Patent No. 10,791,936). 6:20-cv-00979-ADA (W.D. Tex.) (Albright, J.).

### **IPR, CBM, AND OTHER PGR FILINGS**

There are no known pending IPR, CBM, or other PGR filings directed to the Asserted Patents.

### **NUMBER OF ASSERTED PATENTS AND CLAIMS**

Align has asserted 9 patents. The Asserted Patents are U.S. Patent Nos. 10,973,613 (the "'613 patent"), 11,154,384 (the "'384 patent"), 11,648,090 (the "'090 patent"), 11,648,091 (the "'091 patent"), 8,038,444 (the "'444 patent"), 10,456,217 (the "'217 patent"), 10,524,879 (the "'879 patent"), 11,369,456 (the "'456 patent"), and 10,791,936 (the "'936 patent"). Align has not yet served preliminary infringement contentions but expects to assert approximately 150 claims.

Align also has pleaded claims for false advertising, unfair competition, and civil conspiracy. *See* ECF No. 1 (Counts 1–3).

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<sup>2</sup> Institut Straumann conditionally joins ClearCorrect's motion to dismiss to the extent that Institut Straumann's motion under Rule 12(b)(2) is denied.

### **APPOINTMENT OF TECHNICAL ADVISOR**

Align does not believe a technical advisor would be beneficial. Defendants ClearCorrect and Institut Straumann defer to the court on whether to appoint a technical advisor; Defendants do not oppose such an appointment.

### **MEET AND CONFER STATUS**

Counsel for Align and counsel for Defendants met and conferred on June 14, 2024, June 19, 2024, and June 26, 2024. The Parties note that there are two pending motions to dismiss—including a 12(b)(2) motion to dismiss Align’s claims against Institut Straumann for lack of personal jurisdiction. With respect to the 12(b)(2) motion to dismiss for lack of personal jurisdiction, Align has indicated that it will seek discovery in connection with the motion. Accordingly, Institut Straumann may seek the Court’s guidance as to scheduling a hearing once discovery and briefing is complete in connection with the pending 12(b)(2) motion.

Dated: June 27, 2024

/s/ Brian C. Nash

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Respectfully submitted,

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***Attorneys for Defendants  
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***Limited Appearance for Defendant  
Institut Straumann AG***

**CERTIFICATE OF SERVICE**

I hereby certify that on June 27, 2024, a true and correct copy of the foregoing document was served electronically, via ECF, on all counsel of record who are deemed to have consented to such service under the Court' s local rules.

/s/ Brian C. Nash  
Brian C. Nash